



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2013-0241; FRL- 9906-97-Region-3]**

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Commercial Fuel Oil Sulfur Limits for Combustion Units**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision will implement low sulfur fuel oil provisions that will reduce the amount of sulfur in fuel oils used in combustion units which will aid in reducing sulfates that cause decreased visibility. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before [insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2013-0241 by one of the following methods:

- A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- B. E-mail: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).
- C. Mail: EPA-R03-OAR-2013-0241, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be

made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2013-0241. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or

in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** On February 25, 2013, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to the Pennsylvania SIP by adopting revisions to *25 Pennsylvania Code (Pa. Code)* Chapters 121, 123 and 139. This revision implements low sulfur fuel oil provisions that will reduce the amount of sulfur in fuel oils used in combustion units and amends associated definitions, sampling and test methods, and record keeping and recording provisions which will aid in reducing sulfates that cause decreased visibility.

## **I. Background**

Sulfur dioxide (SO<sub>2</sub>) is one of a group of highly reactive gasses known as “oxides of sulfur.” The largest sources of SO<sub>2</sub> emissions are from fossil fuel combustion at power plants (73 percent) and other industrial facilities (20 percent). Smaller sources of SO<sub>2</sub> emissions include industrial processes such as extracting metal from ore and the burning of high sulfur-containing fuels by locomotives, large ships, and non-road equipment. Combustion of sulfur-containing

commercial fuel oils releases SO<sub>2</sub> emissions, which contribute to the formation of regional haze and fine particulate matter (PM<sub>2.5</sub>), both of which impact the environment and human health. Regional haze is pollution produced by sources and activities that emit fine particles and their precursors which impairs visibility through scattering and absorption of light. Regional haze affects urban and rural areas, including national parks, forests, and wilderness areas.

Fine particles may be emitted directly or formed from emissions of precursors, the most important of which includes SO<sub>2</sub>. SO<sub>2</sub> emissions oxidize in the atmosphere to form sulfate particles. Visibility impairment, including regional haze, is mostly due to an increase in sulfate particles in the atmosphere. SO<sub>2</sub> emissions also contribute to the formation of acid rain. Both acid rain and PM<sub>2.5</sub> contribute to agricultural crop and vegetation damage and degradation of the Chesapeake Bay. Combustion of low sulfur-content commercial fuel oil can contribute to a reduction in SO<sub>2</sub> emissions and in the incidences of adverse effects in the Commonwealth of Pennsylvania. The reduction of sulfur limits in commercial fuel oils used in residential and commercial combustion units is an appropriate measure for reducing regional haze and improving visibility.

## **II. Summary of SIP Revision**

This SIP revision to implement low sulfur fuel oil provisions applies to the owner and/or operator of the following: 1) Refineries; 2) pipelines; 3) terminals; 4) retail outlet fuel storage facilities and ultimate consumers; 5) commercial and industrial facilities; and 6) facilities with a unit burning regulated fuel oil to produce electricity and domestic home heaters.

The amendments to Chapter 121, section 121.1 – Definitions, add a new term “ultimate consumer” and amend the definitions of the following terms to provide clarity and support the amendments to Chapter 123: 1) “Commercial fuel oil;” 2) “Noncommercial fuel;” 3) “Carrier;” 4) “Distributor;” 5) “Retail outlet;” 6) “Terminal;” 7) “Transferee;” and 8) “Transferor.” The definitions for “Commercial fuel oil” and “Noncommercial fuel” are amended in order to synchronize them. The definition for “Carrier” is amended in order to expand the definition to apply to commercial fuel oil that is carried. The definition for “Distributor” is amended in order to establish applicability to commercial fuel oil that is distributed and to broaden the list of transferees. The definitions for “Retail outlet” and “Terminal” are amended in order to expand the definitions. The definitions for “Transferee” and “Transferor” are amended in order to provide more specificity by listing examples of the persons and/or entities required to comply with the regulation.

This SIP revision to Chapter 123, section 123.22 – Combustion units, implements low sulfur fuel oil provisions that will reduce the amount of sulfur in fuel oils that are stored, offered for sale, delivered for use, sold or exchanged in trade for use in Pennsylvania. This SIP revision amends and adds two subsections to section 123.22. The following amendments are made to section 123.22(a), which applies to nonair basin areas: 1) Editorial revisions to express the new maximum allowable sulfur contents both in parts per million (ppm) by weight and percentage by weight; 2) amendments to the existing percent sulfur limits to be expressed as maximum allowable percentage sulfur by weight, through June 20, 2016; 3) reductions to the maximum allowable sulfur content for commercial fuel oil, expressed as ppm by weight or percentage by weight, for number 2 and lighter distillate oil to 0.05 percent sulfur content by weight (500 ppm),

number 4 residual oil to 0.25 percent sulfur content by weight, and 0.5 percent sulfur content by weight for number 5 and number 6 and heavier commercial fuel oils by no later than July 1, 2016; 4) establish a provision that a person is not authorized to offer for sale, deliver for use, exchange in trade or permit the use of a noncomplying commercial fuel oil in a nonair basin on or after July 1, 2016; 5) establishment of two exceptions which allow commercial fuel oil stored by ultimate consumers prior to July 1, 2016 to be used after that date as long as the applicable maximum sulfur content identified through June 30, 2016 were met and allow for temporary suspension or increase in the applicable maximum allowable sulfur content limits; and 6) amendments to the equivalency provision to provide greater clarity.

Subsections (b), (c), (d), and (e) of section 123.22 are amended similarly to subsection (a); however, they establish applicability to specific areas. Section 123.22(b) establishes applicability to air basins in Erie, Harrisburg, York, Lancaster, Scranton, and Wilkes-Barre. Section 123.22(c) establishes applicability to air basins in Allentown, Bethlehem, Easton, Reading, Upper Beaver Valley, and Johnstown. Section 123.22(d) establishes applicability to air basins in Allegheny County, Lower Beaver Valley, and Monongahela Valley and adds maximum allowable sulfur content limits and the equivalency provision which never existed. Section 123.22(e) establishes applicability to air basins in Southeast Pennsylvania which are defined in section 121.1.

This SIP revision adds section 123.22(f) in order to establish sampling and testing requirements for refinery and terminal owners and operators to ensure compliance with the maximum allowable sulfur content for commercial fuel oil intended for use or used on or after July 1, 2016.

This SIP revision also adds section 123.22(g) in order to establish recordkeeping and reporting requirements applicable to transferors and transferees in the manufacture and distribution chain for commercial fuel oil from the refinery owner or operator to the ultimate consumer.

This SIP revision amends Chapter 139 in order to update provisions in section 139.4 and section 139.16. The amendments to section 139.4 – References update six of the applicable sulfur method references, add two new sulfur method references, and provide the address for requesting a temporary suspension or increase. Section 139.16 – Sulfur in fuel oil, is amended in order to add cross references to the two new sulfur method references in section 139.4.

### **III. Proposed Action**

EPA has determined that the revisions made to 25 *Pa. Code* Chapters 121, 123, and 139 meet the SIP revision requirements of the CAA and is proposing to approve the amendments to Pennsylvania's regulations for commercial fuel oil sulfur limits for combustion units. By reducing the sulfur in the fuel oils, sulfur oxide emissions and fine particulate emissions will be reduced which will improve visibility and help to attain the PM<sub>2.5</sub> national ambient air quality standard. EPA believes these regulations strengthen the Pennsylvania SIP. EPA notes that existing provisions and the adoption of a low sulfur fuel oil strategy will lead to SO<sub>2</sub> emission reductions and provide additional emission reductions from Pennsylvania to achieve further reasonable progress towards reducing regional haze. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);



- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to implement low sulfur fuel oil provisions that will reduce the amount of sulfur in fuel oils used in combustion units in Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: February 7, 2014.

W. C. Early,

Acting Regional Administrator,

Region III.

